

**63A-14-706 Testimony and examination of witnesses -- Oath -- Procedure -- Contempt.**

- (1) The chair shall ensure that each witness listed in a complaint and response is subpoenaed for appearance at the hearing unless:
  - (a) the witness is unable to be properly identified or located; or
  - (b) service is otherwise determined to be impracticable.
- (2) The chair shall determine the scheduling and order of witnesses and presentation of evidence.
- (3) The commission may, by majority vote:
  - (a) overrule the chair's decision not to subpoena a witness under Subsection (1);
  - (b) modify the chair's determination on the scheduling and order of witnesses, and the presentation of evidence, under Subsection (2);
  - (c) decline to hear or call a witness who is requested by a complainant or a respondent;
  - (d) decline to review or consider evidence submitted in relation to an ethics complaint; or
  - (e) request and subpoena witnesses or evidence according to the procedures of Section 63A-14-704.
- (4)
  - (a) Each witness shall testify under oath.
  - (b) The chair or the chair's designee shall administer the oath to each witness.
- (5) After the oath is administered to a witness, the chair shall direct testimony as follows:
  - (a) allow the party that called the witness, or that party's counsel, to question the witness;
  - (b) allow the opposing party, or the opposing party's counsel, to cross-examine the witness;
  - (c) allow additional questioning by a party or a party's counsel as appropriate;
  - (d) give commission members the opportunity to question the witness; and
  - (e) as appropriate, allow further examination of the witness by the commission, or the parties or their counsel.
- (6)
  - (a) If a witness, a party, or a party's counsel objects to a question, the chair shall:
    - (i) direct the witness to answer; or
    - (ii) rule that the witness is not required to answer the question.
  - (b) If a witness declines to answer a question after the chair or a majority of the commission determines that the witness is required to answer the question, the witness may be held in contempt in accordance with the provisions of Section 63A-14-705.
- (7)
  - (a) The chair or a majority of the members of the commission may direct a witness to furnish any relevant evidence for consideration if the witness brings the material voluntarily or was required to bring the material by subpoena.
  - (b) If a witness declines to provide evidence in response to a subpoena, the witness may be held in contempt under Section 63A-14-705.

Enacted by Chapter 426, 2013 General Session